

21 C.J.S. Courts § 119

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Courts

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III. Creation and Constitution; Officers of Courts

A. Creation, Organization, and Abolition of Courts

3. Jurisdiction and Transfer of Cases; Judicial Departments and Districts; Divisions of Courts

§ 119. Divisions and parts of courts

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A court which is divided into divisions or departments remains a unit notwithstanding; actions brought in any of the departments are in effect in the same court, and decisions and judgments therein are rendered by the same tribunal.

For administrative convenience,¹ it frequently happens that a court is divided into a number of different departments, parts, or divisions,² and the legislature has power so to regulate the business of a court in the absence of any constitutional prohibition.³ However, the creation of divisions by a court in contravention of constitutional or statutory provisions is invalid.⁴

Cases are assigned to the various divisions or departments as provided by statute or rule of court,⁵ and a litigant has no inherent right to have a case tried by a particular division or judge.⁶ Each judicial district constitutes a single court, and the creation of different divisions does not operate to

sever a single district court into multiple courts; statutory term "court" does not reach each of the internal divisions that make up a district court but rather embraces the district court as a whole.⁷ Cases of a particular nature should be assigned to the department designated by statute or rule of court for that type of case.⁸ Indeed, a statutory assignment to one division of a court confers on that division exclusive jurisdiction to determine the matters assigned and deprives the court's other divisions, including its central division, of jurisdiction to determine those same matters. For example, the trial court lacked jurisdiction to hear a former wife's complaint for a portion of a former husband's retirement benefits where the former wife filed her complaint in the general division of the trial court, the husband and wife were granted a divorce by the domestic relations division of the trial court, and a statute provided that the division of marital property, including retirement benefits accumulated during a marriage, was under the jurisdiction of the domestic relations court.⁹

There is no jurisdictional bar to one division of a court entertaining an action more appropriately considered in another division so long as doing so does not violate statutes or rules of court and the claim has a rational nexus to a subject matter within the responsibility of that division.¹⁰ As a general rule, jurisdiction is not dependent on a proper assignment, and an irregularity in an assignment presents no question of jurisdiction in the ordinary sense of the term.¹¹ The irregularity is waived or cured by the absence of a timely objection thereto.¹² A judgment rendered in an improper division of a court is not void or voidable for that reason.¹³

Where most, if not all, cases involving a particular type of dispute have been brought in the same division of the court, an action involving such a dispute will be transferred to that division, as for example, bidding on public contracts.¹⁴

The court remains a unit notwithstanding such a division.¹⁵ Where the constitution vests the power in the court and not in departments, which are merely for convenience, the judges hold but one and the same court whether sitting separately or together.¹⁶ Actions brought in any of such departments are in effect in the same court, and decisions and judgments therein are rendered by the same tribunal,¹⁷ although where a case is assigned or allotted to a particular department or division, such department or division has exclusive jurisdiction of it.¹⁸

One department of a court cannot enjoin, restrain, or otherwise interfere with the judicial act of another department of the court.¹⁹ Where a proceeding has not been finally disposed of, it is beyond the jurisdictional authority of another department of the same court to interfere with the exercise of power of the department to which proceedings have been assigned.²⁰ However, a separate and

distinct action,²¹ or a proceeding to enforce a judgment obtained,²² or a decree or order entered,²³ may properly be heard in another department.

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Footnotes

- 1 Ill.—*In re Marriage of Devick*, 315 Ill. App. 3d 908, 248 Ill. Dec. 833, 735 N.E.2d 153, 42 U.C.C. Rep. Serv. 2d 819 (2d Dist. 2000).

Ind.—*In re Adoption of J.T.D.*, 21 N.E.3d 824 (Ind. 2014).
- 2 Fla.—*In re Guardianship of Bentley*, 342 So. 2d 1045 (Fla. 4th DCA 1977).

Juvenile court
A juvenile court is merely a division of a single unified circuit court; it is the circuit as a whole that is vested with jurisdiction.

Ill.—*People v. Mathis*, 357 Ill. App. 3d 45, 293 Ill. Dec. 51, 827 N.E.2d 932 (1st Dist. 2005).
- 3 Ark.—*Citizens Bank of Batesville v. Estate of Pettyjohn*, 282 Ark. 222, 667 S.W.2d 657 (1984).

Ill.—*Yellow Cab Co. v. Jones*, 108 Ill. 2d 330, 91 Ill. Dec. 643, 483 N.E.2d 1278 (1985).

N.H.—*In re Muller*, 164 N.H. 512, 62 A.3d 770 (2013).
- 4 Cal.—*Fay v. District Court of Appeal, Second Appellate Dist., Division Two*, 200 Cal. 522, 254 P. 896 (1927).

Fla.—*Jennings Const. Corp. v. Metropolitan Dade County*, 373 So. 2d 79 (Fla. 3d DCA 1979).
- 5 Mo.—*State ex rel. MacNish v. Landwehr*, 332 Mo. 622, 60 S.W.2d 4 (1933).
- 6 La.—*Robertson v. Cambon*, 176 La. 753, 146 So. 738 (1933).
- 7 La.—*State v. Cooper*, 50 So. 3d 115 (La. 2010).
- 8 Or.—*Leonard v. Ekwall*, 124 Or. 351, 264 P. 463 (1928).

Housing standards
The housing part of a civil court is an appropriate forum in which to enforce housing standards.

N.Y.—*Missionary Sisters of the Sacred Heart v. Meer*, 131 A.D.2d 393, 517 N.Y.S.2d 504 (1st Dep't 1987).
- 9 Ohio—*Keen v. Keen*, 157 Ohio App. 3d 379, 2004-Ohio-2961, 811 N.E.2d 565 (2d Dist. Montgomery County 2004).
- 10 D.C.—*Brandenburger & Davis, Inc. v. Estate of Lewis*, 771 A.2d 984 (D.C. 2001).
- 11 D.C.—*Ali Baba Co., Inc. v. WILCO, Inc.*, 482 A.2d 418 (D.C. 1984).

Ill.—*Board of Trustees of Community College Dist. No. 508 v. Rosewell*, 262 Ill. App. 3d 938, 200 Ill. Dec. 74, 635 N.E.2d 413 (1st Dist. 1992).
- 12 Fla.—*Cote v. State*, 793 So. 2d 907 (Fla. 2001).

Action may continue in wrong division

N.C.—Circle J. Farm Center, Inc. v. Fulcher, 57 N.C. App. 206, 290 S.E.2d 798 (1982).

13 N.C.—Circle J. Farm Center, Inc. v. Fulcher, 57 N.C. App. 206, 290 S.E.2d 798 (1982).

14 N.J.—Sempre Const. Co., Inc. v. Mount Laurel Tp., 196 N.J. Super. 204, 482 A.2d 36 (Ch. Div. 1984).

15 La.—State ex rel. Guste v. Green, 657 So. 2d 610 (La. Ct. App. 1st Cir. 1995).

Ohio—City Loan & Sav. Co. v. Howard, 16 Ohio App. 3d 185, 475 N.E.2d 154 (2d Dist. Greene County 1984).

16 Cal.—People v. Ellison, 111 Cal. App. 4th 1360, 4 Cal. Rptr. 3d 713 (1st Dist. 2003), as modified, (Sept. 18, 2003).

17 Ariz.—Peterson v. Speakman, 49 Ariz. 342, 66 P.2d 1023 (1937).

18 Ill.—In re Marriage of Wojcicki, 135 Ill. App. 3d 248, 90 Ill. Dec. 139, 481 N.E.2d 939 (1st Dist. 1985).

Mo.—Comfort v. Higgins, 576 S.W.2d 331 (Mo. 1978).

19 Cal.—People v. Ellison, 111 Cal. App. 4th 1360, 4 Cal. Rptr. 3d 713 (1st Dist. 2003), as modified, (Sept. 18, 2003).

20 Cal.—Glade v. Glade, 38 Cal. App. 4th 1441, 45 Cal. Rptr. 2d 695 (2d Dist. 1995).

21 N.J.—East Brunswick Tp. v. Middlesex County Bd. of Freeholders, 224 N.J. Super. 44, 539 A.2d 756 (Ch. Div. 1987).

22 Mo.—Graber v. Ft. Dearborn Casualty Underwriters of Chicago, Ill., 35 S.W.2d 933 (Mo. Ct. App. 1931).

23 Ill.—Olsen v. Karwoski, 68 Ill. App. 3d 1031, 25 Ill. Dec. 173, 386 N.E.2d 444 (1st Dist. 1979).

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